

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 16775
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
	)	
	)	
	)	

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On May 10, 2002, the staff of the Sales, Use and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing use tax, penalty, and interest for the period June 1, 1999, through April 30, 2001, in the total amount of \$296,791.

The taxpayer filed a timely appeal and petition for redetermination on July 12, 2002. The Bureau wrote to the taxpayer on July 12, 2002, asking that it send documentation in support of the protest to the auditor. After repeated attempts to reach the taxpayer by telephone were unsuccessful, the auditor wrote to the taxpayer on September 10, 2002. The auditor received no response and transferred the case to the legal and tax policy section of the Commission on October 23, 2002.

The Commission sent a letter on November 1, 2002, to advise the taxpayer of its hearing rights. The taxpayer responded on November 27, 2002, and promised in lieu of a hearing to send documentation in support of its protest by January 17, 2003. The Commission confirmed the deadline in a letter dated December 2, 2002. The Commission sent letters on March 6 and April 25, 2003, reminding the taxpayer of its unmet obligation. On May 14, 2003, the taxpayer wrote to the Commission repeating some of its arguments that were rejected previously, and included some documentation. On August 26, 2003, the Commission responded with adjustments and once again advised the taxpayer of its hearing rights regarding the unresolved issues.

The Commission received no response and called the taxpayer on three separate days in late October of 2003, leaving a message each time. A short time later an employee for the taxpayer called the Commission to say that she replaced the former employee in matters related to the audit and would be advocating on the taxpayer's behalf. On March 17, 2004, the Commission wrote to this new representative reminding her that she had not provided anything further for the Commission to consider and asked that she send documentation no later than April 19, 2004, or the Commission would issue its decision. The taxpayer responded on April 13, 2004, with a letter and documentation. The Commission made further adjustments to the amount held taxable, rejected some requests for adjustment, and advised the taxpayer of the results in a May 12, 2004, letter. The taxpayer has not responded and therefore has not provided anything further for the Commission to consider. The Commission, having reviewed the file, hereby issues its decision.

The taxpayer has not provided the Commission with information to establish that the amount asserted in the Notice of Deficiency Determination, later modified, is incorrect. As a result, the Commission will uphold the tax deficiency notice, as modified, for the period June 1, 1999 through April 30, 2001. A determination of the State Tax Commission is presumed to be correct. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the taxpayer to show that the deficiency is erroneous. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986).

Absent information to the contrary, the Commission finds the deficiency prepared by the Bureau to be a reasonably accurate representation of the taxpayer's use tax liability for the period June 1, 1999 through April 30, 2001.

The Bureau added interest and penalty to the use tax deficiency. The Commission reviewed those additions, found both to be appropriate per Idaho Code sections 63-3045 and 63-3046, and has updated interest accordingly.

WHEREFORE, the Notice of Deficiency Determination dated May 10, 2002, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty and interest:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$67,369	\$ 3,368	\$ 18,037	\$ 88,774

Interest is calculated through October 5, 2004, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is included with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2004.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

## CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2004, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]  
[REDACTED]

Receipt No.

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